



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 24323456

Date: FEB. 15, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a sombo and judo champion, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish the Petitioner met the initial evidence requirements for the classification by establishing his receipt of a major, internationally recognized award or by meeting three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

## I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation; who seek to enter the United States to continue work in the area of extraordinary ability; and whose entry into the United States will substantially benefit prospectively the United States. The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement, that is, a major, internationally recognized award. If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x), including items such as awards, published material in certain media, and scholarly articles.

Where a petitioner meets the initial evidence requirements through either a one-time achievement or meeting three lesser criteria, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner competes in the two martial arts disciplines of sombo wrestling and judo. The Petitioner outlined his achievements to include, in part, winning the [redacted] at the World Sombo Championship in [redacted] and obtaining [redacted] in the [redacted] Judo International Tournament in [redacted]. The Petitioner stated that he accomplished numerous achievements in his field of expertise which have been recognized on both a national and international level. Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claims to have satisfied three of these criteria, summarized below:

- (i), documentation of the individual’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor
- (ii), membership in associations requiring outstanding achievements of their members
- (iii), published material about the individual in professional or major media

The Director concluded the Petitioner met two of the criteria, pertaining to the receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor and for published material about the Petitioner in professional or major media. On appeal, the Petitioner asserts that his evidence satisfies the applicable legal requirements to satisfy the other claimed criteria.

We will not disturb the Director’s determinations regarding the two criteria that the Petitioner met. But for the reasons discussed below, we agree with the Director that the Petitioner has not satisfied the other claimed criterion.

### A. Evidentiary Criterion

*Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*  
8 C.F.R. § 204.5(h)(3)(ii)

The Petitioner claimed membership in three organizations. After reviewing the Petitioner’s material, the Director determined that he did not meet the requirements of this criterion because he did not establish that the organizations required outstanding achievements as a condition of membership. Within the appeal, the Petitioner maintains that the memberships he has attained qualify under this criterion.

This criterion contains several evidentiary elements the Petitioner must satisfy. First, the Petitioner must demonstrate that he is a member of an association in his field. Second, the Petitioner must demonstrate both of the following: (1) the associations utilize nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding, and (2) the associations use this outstanding determination as a condition of eligibility for prospective membership.

First, we consider the International Judo Federation (IJF). The Petitioner submitted a copy of his official IJF identification card, which states the “bearer of this Identification Card is authorized to participate in all UF organized events during its validity.” The Petitioner also presented a printout from IJF’s website listing the Petitioner as an active judo world circuit judoka. Further, the Petitioner submitted evidence of how countries can become members of the IJF and statutory provisions for the IJF member national federations.

On appeal, the Petitioner contends that the IJF is an International Olympic Committee recognized official International Federation for Judo and is responsible for the integrity of their sport on the international level. While we acknowledge that the IJF is an international association, the Petitioner did not provide sufficient evidence regarding the eligibility requirements for becoming a member of the IJF. Although the Petitioner provided some information regarding the federations’ membership, it is not clear how members are eligible to join. The submitted documentation does not show that IJF utilized national or international recognized experts to judge the achievement of prospective members to determine if the achievements were outstanding. Also lacking was an indication that IJF used this outstanding determination as a condition of eligibility for membership. Each of these are mandatory requirements within the regulation.

The Petitioner also provided a copy of his membership card from USA Judo. However, the Petitioner did not provide any evidence of the eligibility requirements to become a member of USA Judo. The record does not contain sufficient evidence to support the claim that USA Judo requires outstanding achievements of its members, as judged by recognized national or international experts.

The Petitioner further provided a copy of his membership cards from the Republic of Moldova [redacted] titling him as an [redacted]. The Petitioner also submitted a letter from the State Secretary of the [redacted] of the Republic of Moldova confirming that the Petitioner was granted these titles. In addition, the state secretary indicated the “Unique Sports Classification of the Republic of Moldova is a statutory document in the domain of physical training and sports, which states requirements and regulations necessary for conferral of sportive titles and categories in the Republic of Moldova, as well as conditions for their fulfilment.” The letter lists the Moldovan statutes for granting these titles to an individual. On appeal, the Petitioner claims that Moldova has a statutory requirement to obtain these titles and an individual cannot pay a fee or win an event to obtain this distinction. However, the Petitioner did not provide a copy of the statutes outlining these titles’ eligibility requirements, or any other corroborating evidence regarding the eligibility requirements to obtain these titles. Absent from the evidence is a showing that the Republic of Moldova [redacted] [redacted] utilized nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements were outstanding, and an indication that it this outstanding determination as a condition of eligibility for membership. It is insufficient to allege

eligibility through conclusory assertions that are not supported by sufficient evidence, which proves the allegation.<sup>1</sup>

On appeal the Petitioner does not explain how any of the organizations require outstanding achievements as one of the minimum requirements for membership. For the reasons stated above, the Petitioner has not established eligibility under this criterion.

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten lesser criteria. We also need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20, or render a determination on the issue of whether the Petitioner's entry will substantially benefit prospectively the United States. Accordingly, we reserve these issues.<sup>2</sup>

Nevertheless, we have reviewed the record in the aggregate and concluded that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Price*, 20 I&N Dec. at 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design,"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at \*5 (D.D.C. June 8, 2021) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"). See also *Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at \*1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

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<sup>1</sup> *Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998); *Fano v. O'Neill*, 806 F.2d 1262, 1266 (5th Cir. 1987); *1756, Inc. v. Att'y Gen*, 745 F. Supp. 9, 17 (D.D.C. 1990).

<sup>2</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); see also *Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.